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SENATE BILL 853

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; ESTABLISHING THAT A VIOLATION OF THE LIQUOR CONTROL ACT FOR PROVIDING MINORS WITH ALCOHOLIC BEVERAGES REQUIRES KNOWLEDGE THAT THE RECIPIENT IS A MINOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22, as amended) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS-- POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS. --

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if [~~he~~] the person knows [~~or has reason to know~~] that [~~he~~] the person is violating the provisions of this section, to:

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1 (1) sell, serve or give alcoholic beverages to
2 a minor or permit a minor to consume alcoholic beverages on the
3 licensed premises;

4 (2) buy alcoholic beverages for or procure the
5 sale or service of alcoholic beverages to a minor;

6 (3) deliver alcoholic beverages to a minor; or

7 (4) aid or assist a minor to buy, procure or
8 be served with alcoholic beverages.

9 B. It is not a violation of the Liquor Control Act,
10 as provided in Subsection A or C of this section, when:

11 (1) a parent, legal guardian or adult spouse
12 of a minor serves alcoholic beverages to that minor on real
13 property, other than licensed premises, under the control of
14 the parent, legal guardian or adult spouse; or

15 (2) alcoholic beverages are used in the
16 practice of religious beliefs.

17 C. It is a violation of the Liquor Control Act for
18 a minor to buy, attempt to buy, receive, possess or permit
19 himself to be served with alcoholic beverages.

20 D. When a person other than a minor procures
21 another person to sell, serve or deliver alcoholic beverages to
22 a minor by actual or constructive misrepresentation of facts or
23 concealment of facts calculated to cause the person selling,
24 serving or delivering the alcoholic beverages to the minor to
25 believe that the minor is legally entitled to be sold, served

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1 or delivered alcoholic beverages, and actually deceives that
2 person by that misrepresentation or concealment, then the
3 procurer and not the person deceived shall have violated the
4 provisions of the Liquor Control Act.

5 E. As used in the Liquor Control Act, "minor" means
6 a person under twenty-one years of age.

7 F. In addition to the penalties provided in Section
8 60-6C-1 NMSA 1978, a violation of the provisions of Subsection
9 A of this section is a fourth degree felony and the offender
10 shall be sentenced pursuant to the provisions of Section
11 31-18-15 NMSA 1978.

12 G. A violation of the provisions of Subsection C of
13 this section is a misdemeanor and the offender shall be
14 punished as follows:

15 (1) for a first violation, the offender shall
16 be:

17 (a) fined an amount not more than one
18 thousand dollars (\$1,000); and

19 (b) ordered by the sentencing court to
20 perform thirty hours of community service related to reducing
21 the incidence of driving while under the influence of
22 intoxicating liquor;

23 (2) for a second violation, the offender
24 shall:

25 (a) be fined an amount not more than one

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1 thousand dollars (\$1,000);

2 (b) be ordered by the sentencing court
3 to perform forty hours of community service related to reducing
4 the incidence of driving while under the influence of
5 intoxicating liquor; and

6 (c) have ~~[his]~~ the offender's driver's
7 license suspended for a period of ninety days. If the minor is
8 too young to possess a driver's license at the time of the
9 violation, then ninety days shall be added to the date ~~[he]~~ the
10 offender would otherwise become eligible to obtain a driver's
11 license; and

12 (3) for a third or subsequent violation, the
13 offender shall:

14 (a) be fined an amount not more than one
15 thousand dollars (\$1,000);

16 (b) be ordered by the sentencing court
17 to perform sixty hours of community service related to reducing
18 the incidence of driving while under the influence of
19 intoxicating liquor; and

20 (c) have ~~[his]~~ the offender's driver's
21 license suspended for a period of two years or until the
22 offender reaches twenty-one years of age, whichever period of
23 time is greater.

24 H. A violation of the provisions of Subsection D of
25 this section is a fourth degree felony and the offender shall

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1 be sentenced pursuant to the provisions of Section 31-18-15
2 NMSA 1978. "